

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
NOV 30 2009

CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS R. KELLEY,

Defendant.

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CR 08-40173

ORDER

Pending before the Court is the Defendant's Motion to Dismiss Counts 2 and 3 of the Superseding Indictment, Doc. 34. The Court has reviewed the Motion to Dismiss Counts 2 and 3 of the Superseding Indictment, Magistrate Judge Simko's Report and Recommendation of October 23, 2009, Doc. 44.

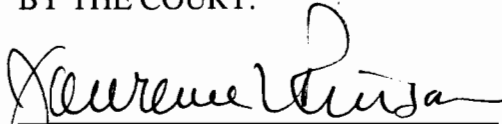
The factual statements made in the Report and Recommendation are adopted and will not be repeated. Accordingly,

IT IS ORDERED:

1. That the Magistrate Judge's Report and Recommendation, Doc. 44, is ADOPTED by the Court, and Defendant's Motion to Dismiss Counts 2 and 3 of the Superseding Indictment, Doc. 34, is DENIED

Dated this 30th day of November, 2009.

BY THE COURT:


Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 

DEPUTY